

REMARKS

In response to the above-identified Office Action (“Action”), Applicants traverse the Examiner’s rejection to the claims and seek reconsideration thereof. Claims 1-61 are pending in the present application. Claims 25-27, 29, 31-33, 60 and 61 are allowed, claims 21-24, 28, 30 and 34 are rejected, and claims 35-39 and 59 are objected to. Claims 1-20 and 40-58 remain withdrawn. In this response, claims 21 and 30 are amended, no claims are added and no claims are cancelled.

I. Amendments

Applicants respectfully submit herewith amendments to claims 21 and 30.

Claim 21 is amended to recite “a transparent porous material comprising a water film formed in a pore of the porous material.” Support for the amendment to claim 1 may be found, for example, on page 11, lines 10-12.

Claim 30 is amended to recite that the dye contains “indigo carmine.” Support for the amendment to claim 30 may be found, for example, on page 30, line 26 – page 45, line 1.

In view of the foregoing, Applicants respectfully submit the amendments to the claims are supported by the specification and do not add new matter. Accordingly, Applicants respectfully request consideration and entry of the amendments to claims 21 and 30.

II. Claim Rejections – 35 U.S.C. §102

In the outstanding Action, the Examiner rejects claims 21-24 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,911,179 issued to Ando et al. (“Ando”). Applicants respectfully traverse the rejection.

It is axiomatic to a finding of anticipation that the cited prior art teach each and every element of the rejected claim. In regard to claim 21, Applicants respectfully submit Ando fails to teach at least the element of “a transparent porous material comprising a water film formed in a pore of the porous material” (emphasis added).

The Examiner generally alleges Ando teaches the transparent porous material and dye as recited in claim 21. See Action, page 2. The Examiner, however, fails to identify and Applicants are unable to discern a portion of Ando teaching a water film formed in a pore of the porous material as recited in the amendments to claim 21. Additionally, Ando fails to disclose or contemplate a technique for forming a gas sensing element which would result in formation of a water film in a pore of the porous glass disclosed in Ando therefore this feature is further not inherent within Ando. Since each and every element of claim 21 is not disclosed in Ando, anticipation may not be established. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 21 under 35 U.S.C. §102 over Ando.

In regard to claims 22-24, claims 22-24 depend from claim 21 and incorporate the limitations thereof. Applicants respectfully submit for at least the reasons that claim 21 is not anticipated by Ando, claims 22-24 are further not anticipated by the cited reference. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 22-24 under 35 U.S.C. §102 over Ando.

III. Claim Rejections – 35 U.S.C. §103

A. In the outstanding Action, the Examiner rejects claim 28 under 35 U.S.C. §103(a) as being unpatentable over Ando in view of Japanese Patent No. JP 62-291564 issued to Masao et al. (“JP ‘564”). Applicants respectfully traverse the rejections.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest the claimed combination of elements or identify an apparent reason to combine prior art elements in the manner claimed.

Applicants respectfully submit claim 28 depends from claim 21 and incorporates the limitations thereof. Thus, for at least the reasons previously discussed, Ando fails to teach at least the element of “a transparent porous material comprising a water film formed in a pore of the porous material” as further found in claim 28. In addition, the Examiner has not shown that Ando in view of JP ‘564 suggests or provides any apparent reason for at least this element. Since the Examiner has not shown that Ando in view of JP ‘564 discloses the claimed combination of elements, a *prima facie* case of obviousness may not be established with respect to claim 28.

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 28 under 35 U.S.C. §103 over Ando in view of JP ‘564.

B. In the outstanding Action, the Examiner rejects claim 30 under 35 U.S.C. §103(a) as being unpatentable over Ando in view of German Patent No. DE 19619226 issued to Lupo et al. (“DE ‘226”). Applicants respectfully traverse the rejections.

Applicants respectfully submit claim 30 depends from claim 21 and incorporates the limitations thereof. Thus, for at least the reasons previously discussed, Ando fails to teach at least the element of “a transparent porous material comprising a water film formed in a pore of the porous material” as further found in claim 30. In addition, the Examiner has not shown that Ando in view of DE ‘226 suggests or provides any apparent reason for at least this element. Since the Examiner has not shown that Ando in view of DE ‘226 discloses the claimed combination of elements, a *prima facie* case of obviousness may not be established with respect to claim 30. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 30 under 35 U.S.C. §103 over Ando in view of DE ‘226.

C. In the outstanding Action, the Examiner rejects claim 34 under 35 U.S.C. §103(a) as being unpatentable over Ando in view of DE ‘226 and further in view of JP ‘564. Applicants respectfully traverse the rejections.

Applicants respectfully submit claim 34 depends from claim 21 and incorporates the limitations thereof. Thus, for at least the reasons previously discussed, Ando in view of DE ‘226 and JP ‘564 fails to teach or suggest or provide any apparent reason for at least the element of “a transparent porous material comprising a water film formed in a pore of the porous material” as further found in claim 34. Since the Examiner has not shown that Ando in view of DE ‘226 and JP ‘564 discloses the claimed combination of elements, a *prima facie* case of obviousness may not be established with respect to claim 34. Applicants respectfully request reconsideration and withdrawal of the rejection of claim 34 under 35 U.S.C. §103 over Ando in view of DE ‘226 and JP ‘564.

IV. Allowable Subject Matter

Applicants acknowledge and appreciation the Examiner's allowance of claims 25-27, 29, 31-33 and 60-61.

The Examiner further indicates claims 35-39 and 59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants respectfully submit claims 35-39 and 59 depend from claim 21 and incorporate the limitations thereof. As previously discussed, claim 21 is patentable over the prior art. Thus, for at least the reason that claims 35-39 and 59 depend from an allowable base claim, these claims are in condition for allowance without rewriting them as proposed by the Examiner.

For at least the foregoing reasons, Applicants respectfully request consideration and allowance of 35-39 and 59 at the Examiner's earliest convenience.

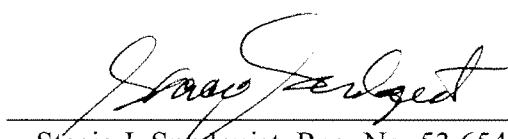
CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 1-61, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on August 2, 2007.


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